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97TH CONGRESS } HOUSE OF REPRESENTATIVES { REPORT
2d Session } { No. 97-806

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PROVIDING FOR THE DESIGNATION OF THE BURNS PAIUTE INDIAN COLONY OF OREGON AS THE BENEFICIARY OF A PUBLIC DOMAIN ALLOTMENT AND PROVIDING THAT ALL INTERESTS IN PUBLIC DOMAIN ALLOTMENTS, IN HARNEY COUNTY, OREGON, WHICH ARE HELD BY INDIAN ALLOTTEES WHO DIE INTESTATE AND WITHOUT HEIRS SHALL ESCHEAT TO THE UNITED STATES TO BE HELD IN TRUST FOR THE BENEFIT OF THE BURNS PAIUTE INDIAN COLONY OF OREGON AND ADDED TO THE BURNS PAIUTE INDIAN RESERVATION

SEPTEMBER 14, 1982.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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Mr. UDALL, from the Committee on Interior and Insular Affairs, submitted the following

REPORT

[To accompany H.R. 5007]

[Including the cost estimate of the Congressional Budget Office]

The Committee on Interior and Insular Affairs, to whom was referred the bill (H.R. 5007) to provide for the designation of the Burns Paiute Indian Colony of Oregon as the beneficiary of a public domain allotment and to provide that all interests in public domain allotments in Harney County, Oregon, which are held by Indian allottees who die intestate and without heirs shall escheat to the United States to be held in trust for the benefit of the Burns Paiute Indian Colony of Oregon and added to the Burns Paiute Indian Reservation, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Page 1, line 3, strike all after the enacting clause and insert the following:

That, pursuant to section 2 of the Act of November 24, 1942 (56 Stat. 1021, 1022; 25 U.S.C. 373b), the estate of Jesse Joseph James, Burns 144–N1116, consisting of a public domain allotment, Burns Paiute public domain allotment numbered 144–111, northwest quarter, section 32, township 23 south, range 32½ east, Willamette meridan, Harney County, Oregon, is hereby declared to be held in trust by the United States for the Burns Paiute Indian Colony of Oregon and part of the Burns Paiute Indian Reservation.

SEC. 2. Section 2 of the Act of November 24, 1942 (56 Stat. 1022; 25 U.S.C. 373b), is amended by inserting the following immediately before the period at the end thereof: ": *Provided further*, That interests in all Burns public domain allot-

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ments located in Harney County, Oregon, belonging to Indians who die intestate without heirs shall be held in trust by the United States for the Burns Paiute Indian Colony of Oregon and shall be part of the Burns Paiute Indian Reservation". However, no non-Indian lands is Harney County, Oregon, shall be considered Indian country as defined in 18 U.S.C. 1151.

SEC. 3. Section 2 of the Act of November 24, 1942 (56 Stat. 1022; 25 U.S.C. 373b) is amended by deleting "$2,000" and inserting in lieu thereof "$50,000".

PURPOSE

The purpose of H.R. 5007, introduced by Mr. Smith of Oregon, is to provide that an Indian public domain allotment included in the estate of a Burns Paiute Indian who died without heirs shall be held in trust by the United States for the Burns Paiute Indian Colony of Oregon.

BACKGROUND

H.R. 5007 provides that the United States shall hold in trust for the Burns Paiute Indian Colony of Oregon, as part of its reservation, a public domain allotment that is included in the estate of a Burns Paiute Indian who died in 1978 with no heirs. Section 2 of the bill would provide that interests in all Burns public domain allotments that are located in Harney County, Oregon, and owned by an Indian allottee dying intestate without heirs shall be held in trust by the United States for the Burns Paiute Indian Colony of Oregon and shall be part of the Burns Paiute Indian Reservation.

Jesse J. James, a Burns Paiute Indian and owner of a 160-acre public domain allotment, died on January 2, 1978. His estate has been probated by the Department of the Interior's Office of Hearings and Appeals and its has been determined that he had no heirs under applicable law. Pursuant to the Act of November 24, 1942 (56 Stat. 1022; 25 U.S.C. 373b), the Administrative Law Judge issued a Final Order of Escheat on May 30, 1980. The case was then referred to the Interior Department's Board of Indian Appeals which determined that legislative action was necessary for the property to escheat to the United States in trust for the Burns Paiute Indian Colony.

Section 2 of the 1942 Act provides that if the Secretary of the Interior determines that such land lies within or adjacent to an Indian community and may be advantageously used for Indian purposes, the land shall escheat to the United States to be held in trust for such needy Indians as the Secretary of the Interior may designate, where the value of the estate does not exceed $2,000. Where the value exceeds said sum, such land is to be held in trust by the United States for such Indians as the Congress may designate.

Although no formal appraisal of the subject property exists, the Bureau of Indian Affairs has estimated the value of the property to be $9,600. It is located twelve miles from the existing 792 acres of the Burns Paiute Colony Tribal trust land, and is one of the many Burns Paiute public domain allotments, totalling 10,854 acres, concentrated in an area just east of Burns, Oregon.

SECTION-BY-SECTION ANALYSIS

Section 1 provides for public domain allotment numbered 144–111, located in Harney County, Oregon, which reverted by escheat to the United States from the estate of Jesse Joseph James, who died intestate

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and without heirs, to be taken in trust by the United States for the benefit of the Burns Paiute Indian Colony of Oregon and shall be added to the Burns Paiute Indian Reservation.

Section 2 provides that any restricted public domain allotment or interest in such allotment which is located in Harney County, Oregon, and is held by an Indian allottee who dies intestate and without heirs, and which escheats to the United States under Section 2 of the Act of November 24, 1942 (25 U.S.C. 373b), shall be held in trust by the United States for the benefit of the Burns Paiute Indian Colony of Oregon and added to the Burns Paiute Indian Reservation. Any such reversion of a public domain allotment to which this Act applies shall be subject to such other restrictions as may be imposed by Section 2 of the 1942 Act.

Committee Amendment

The Committee adopted an amendment in the nature of a substitute recommended by the Department of the Interior. First, the substitute rewrites section 1, but makes no substantive changes in the provisions of the section as introduced.

Secondly, the substitute rewrites section 2 by incorporating its provisions into an amendment to the 1942 Act and, with one exception noted below, makes no substantive change. It does add a sentence restating current law which provides that non-Indian lands in Harney County Oregon, shall not be considered as Indian country as defined in 18 U.S.C. 1151.

Finally, the substitute adds a new section 3 which amends the 1942 Act to increase from $2,000 to $50,000 the value of estates which may be transferred by the Secretary to a tribe without Congressional action.

Cost and Budget Act Compliance

Enactment of H.R. 5007 represents no cost to the United States. The analysis of the Congressional Budget Office follows:

U.S. Congress,
Congressional Budget Office,
Washington, D.C., September 10, 1982.

Hon. Morris K. Udall,
Chairman, Committee on Interior and Insular Affairs,
U.S. House of Representatives, Washington, D.C.

Dear Mr. Chairman: Pursuant to Section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has reviewed H.R. 5007, a bill to provide for the designation of the Burns Paiute Indian Colony as the beneficiary of a public domain allotment, and to provide that future similarly situated land in Harney County, Oregon, will be held in trust for the Colony and added to the Burns Paiute Indian reservation, as ordered reported by the House Committee on Interior and Insular Affairs, August 10, 1982.

Based on this review, it is expected that no additional cost to the government would be incurred as a result of the enactment of this legislation.

Should the Committee so desire, we would be pleased to provide further details on this estimate.

Sincerely,

ALICE M. RIVLIN,
Director.

INFLATIONARY IMPACT STATEMENT

Enactment of H.R. 5007 will have no inflationary impact.

OVERSIGHT STATEMENT

No specific oversight activities were undertaken by the Committee and no recommendations were submitted to the Committee pursuant to rule X, clause 2(b)2.

COMMITTEE RECOMMENDATION

By a voice vote, the Committee approved the amendment in the nature of a substitute to H.R. 5007 and the Committee recommends the enactment of the bill, as amended, by the House.

CHANGES IN EXISTING LAW

In compliance with clause 3 of rule XIII of the rules of the House of Representatives, changes in existing law made by the bill, H.R. 5007, are shown as follows (existing law proposed to be omitted is endorsed in black brackets, new matter printed in italic, existing law in which no change is proposed is shown in roman).

ACT OF NOVEMBER 24, 1942 (56 STAT. 1021)

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SEC. 2. If an Indian found to have died intestate without heirs was the holder of a restricted allotment or homestead or interest therein on the public domain, the land or interest therein and all accumulated rents, issues, and profits therefrom shall escheat to the United States, subject to all valid existing agricultural, surface, and mineral leases and the rights of any person thereunder, and the land shall become part of the public domain subject to the payment of such creditors' claims as the Secretary of the Interior may find proper to be paid from the cash on hand or income accruing to said estate: *Provided*, That if the Secretary determines that the land involved lies within or adjacent to an Indian community and may be advantageously used for Indian purposes, the land or interest therein shall escheat to the United States to be held in trust for such needy Indians as the Secretary of the Interior may designate, where the value of the estate does not exceed [$2,000] *$50,000*, and in case of estates exceeding said sum, such estates shall be held in trust by the United States for such Indians as the Congres may hereafter designate, subject to all valid existing agricultural, surface, and mineral leases and rights of any person thereunder: *Provided further, That interests in all Burns public domain allotments located in Harney County, Oregon, belonging to Indians who dies intestate without heirs shall be held in trust by the United States for the Burns Paiute Indian Colony of Oregon and shall be part of the Burns Paiute Indian Reservation.*

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